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6                   UNITED STATES DISTRICT COURT  
7                   WESTERN DISTRICT OF WASHINGTON  
8                   AT TACOMA

9                   UNITED STATES OF AMERICA,

10                  Plaintiff,

11                  v.

12                  JAMES DALTON BELL,

13                  Defendant.

CASE NO. CR00-5731BHS

ORDER DECLINING TO  
VOLUNTARILY RECUSE  
AND REFERRING THE  
MOTION TO THE CHIEF  
JUDGE

14                  This matter comes before the Court on Defendant James Dalton Bell's "Motion for  
15 Appointment of Unconflicted Judge" which the Court is interpreting as a motion to recuse  
16 the undersigned judge. Dkt. 250. Defendant's motion was filed on March 24, 2010. *Id.*  
17 On March 23, 2010, Robert Leen was appointed as counsel to represent Defendant in the  
18 above-captioned action. Dkt. 248. No pleadings have been filed by Mr. Leen with  
19 respect to Defendant's Motion.

20                  Defendant's motion relies on his position that judges lack "general criminal  
21 jurisdiction in every pending and past criminal case" and must recuse themselves unless  
22 the judges have raised this issue *sua sponte* in every criminal case heard since December  
23 2007. Dkt. 250 at 4. According to Bell, because the undersigned judge has not "been  
24 vetted for this conflict," another "unconflicted judge must be appointed immediately." *Id.*

25                  Motions to recuse a judge are addressed in Local Rule GR 8 (c), which states:

1 Whenever a motion to recuse due to alleged bias or prejudice directed at a  
 2 judge of this court is filed pursuant to 28 U.S.C. §144, the clerk shall refer it  
 3 to the chief judge. . . . Before a ruling is made on a motion to recuse any  
 4 judge, the challenged judge will be afforded an opportunity to review the  
 5 motion papers and decide whether to recuse voluntarily.

6 A judge must recuse himself if a reasonable person would believe that he is  
 7 unable to be impartial. Yagman v. Republic Insurance, 987 F.2d 622, 626 (9th Cir.  
 8 1993). This is an objective inquiry into whether there is the appearance of bias, not  
 9 whether there is bias in fact. Preston v. United States, 923 F.2d 731, 734 (9th Cir.  
 10 1992); United States v. Conforte, 624 F.2d 869, 881 (9th Cir. 1980). In Liteky v.  
United States, 510 U.S. 540, 555 (1994), the Supreme Court further explained the  
 narrow bases for recusal:

11 Judicial rulings alone almost never constitute a valid basis for a bias  
 12 or partiality motion. . . . [O]pinions formed by the judge on the basis of facts  
 13 introduced or events occurring in the course of the current proceedings, or of  
 14 prior proceedings, do not constitute a basis for a bias or partiality motion  
 unless they display a deep-seated favoritism or antagonism that would make  
 fair judgment impossible. Thus, judicial remarks during the course of a trial  
 that are critical or disapproving of, or even hostile to, counsel, the parties, or  
 their cases, ordinarily do not support a bias or partiality challenge.

15 The undersigned judge does not find any proper grounds for recusal in this case  
 16 and therefore, refuses to voluntarily recuse. In compliance with Local Rule GR 8 (c), the  
 17 Court refers the motion to the Chief District Judge.

## 18 ORDER

19 Therefore, good cause having been shown, it is hereby  
 20 **ORDERED** that Defendant's motion to recuse is referred to the Chief District  
 21 Judge.

22 DATED this 13th day of April, 2010.

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 26 BENJAMIN H. SETTLE  
 27 United States District Judge  
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